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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,557	05/13/2004	Richard Lubaway	81099481 / FMC 1749 PUSP	3556
28395 7590 09/26/2007 BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			EXAMINER REDMAN, JERRY E	
			ART UNIT 3634	PAPER NUMBER
			MAIL DATE 09/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/709,557	Applicant(s) LUBAWAY, RICHARD	
	Examiner Jerry Redman	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 11-17, and 20 is/are rejected.
- 7) ☒ Claim(s) 8, 10, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The status of the claims is as follows:

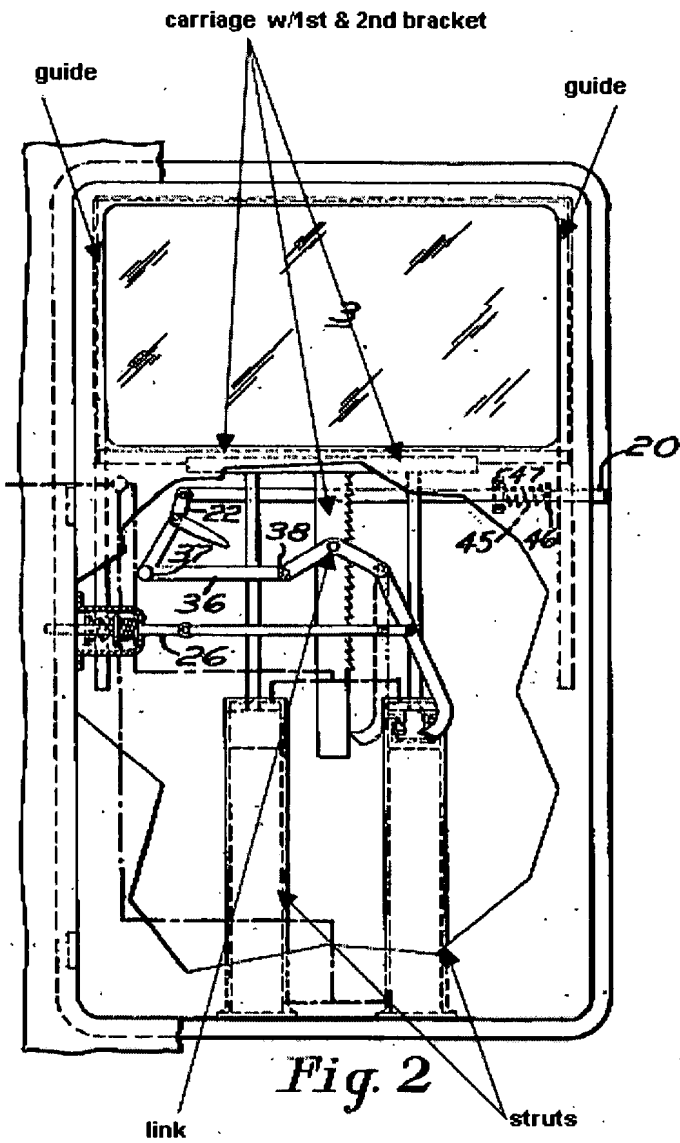
Claims 1-20 are herein addressed below.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Oishei et al. (2,820,628). Oishei et al. (2,820,628) disclose an apparatus for positioning a window comprising a lift mechanism (22, 28, 45, 36, 37, 38, 20 and 26) configured to move between a raised position and a lowered position and having a guide track (see figure below), a carriage (5 and 34) movably coupled to the guide track, a link (the middle portion pivotally attached, see figure) to the carriage at a lower end, and a pair of struts (6 and 6') that helps biased the lift mechanism toward a raised position.



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Claims 9, 11, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Burrige (3,219,335). Burrige ('335) discloses an apparatus for positioning a window (10) disposed in a closure of a vehicle (column 1, lines 11-24), a guide track (21) configured to be attached to the mounting surface, a carriage (17) having a plurality of rollers (29, 30, and 31) adapted to engage the guide track (21), a link (14) pivotally connected (roller mounted with a locking pin and guided in the slot) to the carriage (17) at a first end and connected to a first window bracket (13) at a second end and an actuator (25) for moving the carriage along the guide track (21), and the plurality of rollers (29, 30, and 31) roll along the guide track to move the window (10) between a raised position and a lowered position.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7, 15, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrige ('335) in view of Pickles ('702). Burrige ('335) discloses an apparatus for positioning a window (10) disposed in a closure of a vehicle (column 1, lines 11-24), a guide track (21) configured to be attached to the mounting surface, a carriage (17) having a plurality of rollers (29, 30, and 31) adapted to engage the guide track (21), a link (14) pivotally connected (roller mounted with a locking pin and guided in the slot) to the carriage (17) at a first end and connected to a first window bracket

(13) at a second end and an actuator (25) for moving the carriage along the guide track (21), and the plurality of rollers (29, 30, and 31) roll along the guide track to move the window (10) between a raised position and a lowered position. Burrige ('335) fails to disclose a strut. Pickles ('702) discloses a strut (50). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the apparatus of Burrige ('335) with a strut as taught by Pickles ('702) since a strut provides assistance to an opening/closing mechanism during the closing portion of the window path.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burrige ('335) in view of Kouth et al. (3,640,022). All of the elements of the instant invention are discussed in detail above except providing pairs of rollers. Kouth et al. ('022) disclose a pair of rollers (see figure 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the apparatus of Burrige ('335) with pairs of rollers as taught by Kouth et al. ('022) since pairs of rollers increase the surface area for guiding between the window/drive assembly and the guide track.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burrige ('335) in view of Pickles ('702) as applied to claim 15 above, and further in view of Kouth et al. (3,640,022). All of the elements of the instant invention are discussed in detail above except providing pairs of rollers. Kouth et al. ('022) disclose a pair of rollers (see figure 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the apparatus of Burrige ('335) with pairs of rollers as taught by Kouth et al. ('022) since pairs of rollers increase the surface area for guiding between the window/drive assembly and the guide track.

Claims 8, 10, 18, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-F from 8 to 6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Glessner, can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jerry Redman
Primary Examiner

Jerry Redman
Primary Examiner
Art Unit 3634